



## North Dakota Law Review

---

Volume 64 | Number 4

Article 4

---

1988

### Selected Journal Articles concerning Legal Malpractice

North Dakota Law Review

Follow this and additional works at: <https://commons.und.edu/ndlr>



Part of the [Law Commons](#)

---

#### Recommended Citation

North Dakota Law Review (1988) "Selected Journal Articles concerning Legal Malpractice," *North Dakota Law Review*. Vol. 64 : No. 4 , Article 4.

Available at: <https://commons.und.edu/ndlr/vol64/iss4/4>

This Index is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact [und.common@library.und.edu](mailto:und.common@library.und.edu).

# SELECTED JOURNAL ARTICLES CONCERNING LEGAL MALPRACTICE

## BIBLIOGRAPHY

COMPILED BY JAMES R. CARLSON\*

### BOOKS

- ABA/BNA LAWYERS' MANUAL ON PROFESSIONAL CONDUCT (1985).  
ABA OPINIONS OF THE COMM. ON PROFESSIONAL ETHICS (1967).  
ABA STANDARDS FOR IMPOSING LAWYER SANCTIONS (1986).  
ABA STANDING COMM. ON ETHICS AND PROFESSIONAL RESPONSIBILITY, FORMAL AND INFORMAL ETHICS OPINIONS (1985).  
ABA STANDING COMM. ON ETHICS AND PROFESSIONAL RESPONSIBILITY, RECENT ETHICS OPINIONS (1985).  
ABA STANDING COMM. ON LAWYERS' PROFESSIONAL LIABILITY, PROFILE ON LEGAL MALPRACTICE (1986).  
ANNOTATED CODE OF PROFESSIONAL RESPONSIBILITY (1984).  
ANNOTATED MODEL RULES OF PROFESSIONAL CONDUCT (1984).  
H. DRINKER, LEGAL ETHICS (1953).  
G. HAZARD & W. HODES, THE LAW OF LAWYERING: A HANDBOOK ON THE MODEL RULES OF PROFESSIONAL CONDUCT (1985).  
G. HAZARD, ETHICS IN THE PRACTICE OF LAW (1978).  
D. LUBAN, THE GOOD LAWYER (1983).  
R. MALLEN & V. LEVIT, LEGAL MALPRACTICE (2d ed. 1981).  
T. MORGAN & R. ROTUNDA, MODEL CODE OF PROFESSIONAL RESPONSIBILITY AND OTHER SELECTED STANDARDS (1985).  
R. ROTUNDA, PROFESSIONAL RESPONSIBILITY (1984).  
SHEPARD'S PROFESSIONAL AND JUDICIAL CONDUCT CITATIONS (1988).  
D. SEIMER, UNDERSTANDING MODERN ETHICAL STANDARDS (1985).  
D. STERN & J. RETZKE, A PRACTICAL GUIDE TO PREVENTING LEGAL MALPRACTICE (1983).  
C. WOLFRAM, MODERN LEGAL ETHICS (1986).

---

\* B.A. St. John's University, Collegeville, Minn., 1973; J.D. University of Montana, 1976; M.S.L.S. Catholic University of America, Washington, D.C., 1985; Public Services Librarian, Thormodsgard Law Library, University of North Dakota.

## PERIODICALS

- A Selected Bibliography on Ethics, Theology, Law and Legal Education*, 8 CAP. U.L. REV. 459 (1979).
- Aldisert, *The Appellate Bar: Professional Responsibility and Professional Competence — A View From the Jaundiced Eye of One Appellate Judge*, 11 CAP. U.L. REV. 445 (1982).
- Alschuler, *The Search for Truth Continued, the Privilege Retained: A Response to Judge Frankel*, 54 U. COLO. L. REV. 67 (1982).
- Aronson, *An Overview of the Law of Professional Responsibility: The Rules of Professional Conduct Annotated & Analyzed*, 61 WASH. L. REV. 823 (1986).
- Barnett, *Legal Ethics: Commentary*, 48 BROOKLYN L. REV. 1149 (1982).
- Blair, *Trial Lawyer Incompetence: What the Studies Suggest About the Problem, the Causes and Cures*, 11 CAP. U.L. REV. 419 (1982).
- Blinick, *Mental Disability, Legal Ethics, and Professional Responsibility*, 33 ALB. L. REV. 92 (1968).
- Bowman, *The Proposed Model Rules of Professional Conduct: What Hath the ABA Wrought?*, 13 PAC. L.J. 273 (1982).
- Brown & Dauer, *Professional Responsibility in Nonadversarial Lawyering: A Review of the Model Rules*, 1982 AM. B. FOUND. RES. J. 519.
- Callen & David, *Professional Responsibility and the Duty of Confidentiality: Disclosure of Client Misconduct in an Adversary System*, 29 RUTGERS L. REV. 332 (1976).
- Cargill, *Should Malpractice Lawyers Advertise?*, 11 LAW, MED. & HEALTH CARE 246 (1983).
- Casenote, *Lipton v. Boesky: The Code of Professional Liability as an Independent Basis for Legal Malpractice Liability*, 1984 DET. C.L. REV. 135.
- Celebrezze, *Prosecutorial Misconduct: Quelling the Tide of Improper Comment to the Jury*, 21 THE PROSECUTOR 51 (Summer 1987).
- Clay, *Application of the Model Rules to Legal Malpractice*, 1 COMPLETE LAWYER 37 (Summer 1984).
- Cohen, *Modern Ethics and the Law*, 4 BROOKLYN L. REV. 33 (1934).
- Cole & Spak, *Defense Counsel and the First Amendment: "A Time to Keep Silence, and a Time to Speak."*, 6 ST. MARY'S L.J. 347 (1974).

Comment, *An Attorney in Possession of Evidence Incriminating His Client*, 25 WASH. & LEE L. REV. 133 (1968).

Comment, *Attorney Malpractice - Wrongful Settlement by the Insured's and Insurer's Joint Defense Attorney*, 45 MO. L. REV. 739 (1980).

Comment, *Attorney-Client Privilege: The Remedy of Contempt*, 1968 WIS. L. REV. 1192.

Comment, *Attorney Professional Responsibility: Competence Through Malpractice Liability*, 77 NW. U.L. REV. 633 (1982).

Comment, *Client Perjury: The Constitutionality Dilemma Presents Itself — What is the Standard of Appropriate Conduct for the Criminal Defense Attorney?*, 31 S.D.L. REV. 651 (1986).

Comment, *Controlling Lawyers by Bar Associations and Courts*, 5 HARV. C.R.-C.L. L. REV. 301 (1970).

Comment, *Court May Discipline State Attorney General for Professional Misconduct*, 73 HARV. L. REV. 779 (1960).

Comment, *Disclosure of a Client's Identity: The Ethical Dilemma*, 8 J. LEGAL PROF. 197 (1983).

Comment, *Disclosure of Incriminating Physical Evidence Received From a Client: The Defense Attorney's Dilemma*, 52 U. COLO. L. REV. 419 (1981).

Comment, *Inter-Lawyer Communication and the Prevention of Client Fraud: A Look Back at O. P. M.*, 34 UCLA L. REV. 925 (1987).

Comment, *Pinocchio for the Defense*, 14 FLA. ST. U.L. REV. 891 (1987).

Comment, *Standard of Care in Malpractice Actions Against Insurance Defense Counsel: Inapplicability of the Code of Professional Responsibility*, 51 FORDHAM L. REV. 1317 (1983).

Comment, *The Georgia Code of Professional Responsibility: A Catalyst for Successful Legal Malpractice Actions?*, 37 MERCER L. REV. 817 (1986).

Comment, *The Proposed Model Rules of Professional Responsibility: Disclosure of Clients' Fraud in Negotiation*, 16 U.C. DAVIS L. REV. 419 (1983).

Comment, *Violation of the Code of Professional Responsibility as Stating a Cause of Action on Legal Malpractice*, 6 OHIO N.U.L. REV. 692 (1979).

Comment, *Withdrawal of Counsel in Criminal Cases*, 5 J. LEGAL PROF. 243 (1980).

Costello, *Ethical Issues in Representing Juvenile Clients: A Review*

- of the IJA-ABA Standards on Representing Private Parties*, 10 N.M.L. REV. 255 (1980).
- Cox, *The Lawyer's Public Responsibilities*, 4 HUM. RTS. 1 (1974).
- Crabites, *Our Maleficent Legal Ethics*, 1 NAT'L L. GUILD Q. 186 (1938).
- Dalquist, *Code of Professional Responsibility and Civil Damage Actions Against Attorneys*, 9 OHIO N.U.L. REV. 1 (1982).
- Edelen, *Ideals of a Lawyer*, 60 AM. U.L. REV. 285 (1926).
- Fahy, *Special Ethical Problems of Counsel for the Government*, 33 FED. B.J. 331 (1974).
- Faure & Strong, *The Model Rules of Professional Conduct: No Standard for Malpractice*, 47 MONT. L. REV. 363 (1986).
- Fleishman, *Attorney Claims*, 16 COLO. LAW. 1837 (1987).
- Conflict of Interest Systems*, 16 COLO. LAW. 628 (1987).
- Legal Malpractice and Ethics Update*, 10 COLO. LAW. 2286 (1981).
- Legal Malpractice Claims*, 9 COLO. LAW. 1868 (1980).
- Mandatory Legal Malpractice Insurance: The Solution or a New Problem?*, 14 COLO. LAW. 1795 (1985).
- The Frivolous Lawsuit Statute*, 9 COLO. LAW. 1172 (1980).
- The Pros and Cons of a Captive Legal Malpractice Insurer*, 16 COLO. LAW. 244 (1987).
- The Systematic Approach to Avoiding Legal Malpractice*, 13 COLO. LAW. 802 (1984).
- Why Shouldn't an Attorney Go Into Business With a Client*, 13 COLO. LAW. 432 (1984).
- Frankel, *The Search for Truth Continued: More Disclosure, Less Privilege*, 54 U. COLO. L. REV. 51 (1982).
- Gallagher, *Legal and Professional Responsibility of Corporate Counsel to Employees During an Internal Investigation for Corporate Misconduct*, 6 CORP. L. REV. 3 (1983).
- Garth, *Rethinking the Legal Profession's Approach to Collective Self-Improvement: Competence and the Consumer Prospective*, 1983 WIS. L. REV. 639.
- Gaudineer, *Ethics and Malpractice*, 26 DRAKE L. REV. 88 (1976-77).
- Geer, *Representation of Multiple Criminal Defendants: Conflicts of Interest and the Professional Responsibilities of the Defense Attorney*, 62 MINN. L. REV. 119 (1978).
- Goebel, *Professional Responsibility Issues in International Law Practice*, 29 AM. J. COMP. L. 1 (1981).

- Guy, *Insurance Counsel: Liability Still Requires Negligence*, 21 FOR THE DEF. 10 (April 1981).
- Higginbotham, "See No Evil, Hear No Evil, Speak No Evil" — *Developing a Policy for Disclosure by Counsel to Public Corporations*, 7 J. CORP. L. 285 (1982).
- Hollis, *Ethical Considerations in the Energy Law Practice*, 31 INST. ON OIL & GAS L. & TAX'N 87 (1980).
- Jones, *Canons of Professional Ethics, Their Genesis and History*, 7 NOTRE DAME LAW. 483 (1932).
- Kelso & Kelso, *Conflict, Emotion, and Legal Ethics*, 10 PAC. L.J. 69 (1979).
- Kuhn, *Disclosure Versus Confidentiality*, 29 CATH. LAW. 356 (1985).
- Kutak, *The Next Step in Legal Ethics: Some Observations About the Proposed Model Rules of Professional Conduct*, 30 CATH. U.L. REV. 1 (1980).
- The Rules of Professional Conduct in an Era of Change*, 29 EMORY L.J. 889 (1980).
- Lyman, *State Bar Discipline and the Activist Lawyer*, 8 HARV. C.R.-C.L. L. REV. 235 (1973).
- Mallen & Evans, *Attorneys' Liability for Errors of Judgment — At the Crossroads*, 48 TENN. L. REV. 283 (1980).
- Mallen, *Apparent Partnerships and Real Legal Malpractice Liability*, 55 CAL. ST. B.J. 334 (1980).
- Legal Malpractice: The Legacy of the 1970s*, 16 F. 119 (1980).
- Legal Malpractice: Controlling the Odds*, 20 TRIAL 24 (Sept. 1984).
- Liability for Delegation, Association, Referral of Client's Representation*, 25 RES GESTAE 472 (1981).
- Malpractice at a Glance*, 5 CAL. LAW. 34 (July 1985).
- Preventing Legal Malpractice - What the Organized Bar Can Do*, 7 B. LEADER 15 (May-June 1982).
- Recognizing and Defining Legal Malpractice*, 25 RES GESTAE 148 (1981).
- Report of the Committee on Professional, Officers' and Directors' Liability Law*, 16 F. 97 (1980).
- Report of the Legal Malpractice Committee*, 50 INS. COUNS. J. 194 (1983).
- The Malpractice Risks in Client Counseling*, 1 CAL. LAW. 21 (Sept. 1981).
- The New ABA Ethics Code: Looking at the Changes*, 13 THE BRIEF 9 (Feb. 1984).

- Marie, *Competence and the Legal Profession: The Current Reality of Self-Regulation Under the ABA Code of Professional Responsibility*, 53 INS. COUNS. J. 72 (1986).
- Marshall, *Professional Responsibility and Constitutional Doctrine*, 48 TUL. L. REV. 465 (1974).
- Martin, *Professional Responsibility and Probate Practices*, 1975 WIS. L. REV. 911.
- Martyn, *Lawyer Competence and Lawyer Discipline: Beyond the Bar?*, 69 GEO. L.J. 705 (1981).
- McKay, *Competence and the Professionally Responsible Lawyer*, 29 EMORY L.J. 971 (1980).
- Mersky & Hoppes, *Checklist of Publications of Legal Ethics Opinions*, 59 LAW LIBR. J. 300 (1966).
- Moser, *Client Perjury: The Lawyer's Dilemma*, 29 S. TEX. L. REV. 263 (1987).
- Mounts, *Public Defender Programs, Professional Responsibility, and Competent Representation*, 1982 WIS. L. REV. 473.
- Note, *Attorney Malpractice in California: The Liability of a Lawyer Who Drafts an Imprecise Contract or Will*, 24 UCLA L. REV. 422 (1976).
- Note, *Disqualification of Counsel for the Appearance of Professional Impropriety*, 25 CATH. U.L. REV. 343 (1976).
- Note, *Negligence or Incompetence of an Attorney as Grounds for Disbarment or Suspension*, 30 NOTRE DAME LAW. 273 (1955).
- Note, *Prosecutorial Duty to Disclose Unrequested Impeachment Evidence: The Fifth Circuit's Approach*, 61 WASH. U.L.Q. 163 (1983).
- Note, *Rule 11 Sanctions: Toward Judicial Restraint*, 26 WASHBURN L.J. 337 (1987).
- Note, *Rules Governing Attorneys in the Practice of Their Profession*, 16 MINN. L. REV. 270 (1932).
- Note, *Sanctions for Attorney's Representation of Conflicting Interests*, 57 COLUM. L. REV. 994 (1957).
- Note, *The Intrusion of Federal Immunity Protection Into State Disbarment Proceedings*, 7 LOY. U. CHI. L.J. 58 (1976).
- Note, *The Role of the Lawyer in Divorce: Some Ethical Problems*, 21 U. PITT. L. REV. 720 (1960).
- Note, *The Rules of Professional Conduct: Basis for Civil Liability of Attorneys*, 39 U. FLA. L. REV. 777 (1987).
- O'Dea, *The Lawyer-Client Relationship Reconsidered: Methods for Avoiding Conflicts of Interest, Malpractice Liability, and Disqualification*, 48 GEO. WASH. L. REV. 693 (1980).

- O'Toole, *Canon 9 of the Code of Professional Responsibility: An Elusive Ethical Guideline*, 62 MARQ. L. REV. 313 (1979).
- Oaks, *Ethics, Morality, and Professional Responsibility*, 1975 B.Y.U. L. REV. 591.
- Paas, *Professional Corporations and Attorney-Shareholders: The Decline of Limited Liability*, 11 J. CORP. L. 371 (1986).
- Patterson, *An Analysis of the Proposed Model Rules of Professional Conduct*, 31 MERCER L. REV. 645 (1980).
- Pfennigstorf, *Type and Causes of Lawyers' Professional Liability Claims: The Search for Facts*, 1980 AM. B. FOUND. RES. J. 253.
- Protuondo, *Abusive Tax Shelters, Legal Malpractice, and Revised Formal Ethics Opinion 346: Does Revised 346 Enable Third Party Investors to Recover From Tax Attorneys Who Violate Its Standards?*, 61 NOTRE DAME L. REV. 220 (1986).
- Potts, *Trial by Jury in Disbarment Proceedings*, 11 TEX. L. REV. 28 (1932).
- Pound, *Law and Morals — Jurisprudence and Ethics*, 23 N.C.L. REV. 185 (1945).
- Rieger, *Client Perjury: A Proposed Resolution of the Constitutional and Ethical Issues*, 70 MINN. L. REV. 121 (1985).
- Riger, *The Model Rules and Corporate Practice — New Ethics for a Competitive Era*, 17 CONN. L. REV. 729 (1985).
- Risinger, *Honesty in Pleading and Its Enforcement: Some "Striking" Problems With Federal Rule of Civil Procedure 11*, 61 MINN. L. REV. 1 (1976).
- Roberts, *Attorney-Client Relationship and the IV-D System: Protection Against Inadvertent Disclosure of Damaging Information*, 19 CLEARINGHOUSE REV. 158 (1985).
- Rosenfeld, *Mandatory Pro Bono: Historical and Constitutional Perspectives*, 2 CARDOZO L. REV. 255 (1981).
- Rotunda, *Officers, Directors, and Their Professional Advisers — Rights, Duties, and Liabilities*, 1 CORP. L. REV. (1978).
- The Notice of Withdrawal and the New Model Rules of Professional Conduct: Blowing the Whistle and Waving the Red Flag*, 63 OR. L. REV. 455 (1984).
- Stark, *Review Essay, The Model Rules of Professional Conduct*, 12 CONN. L. REV. 948 (1980).
- Sutton, *The Impact of the Code of Professional Responsibility Upon the Unauthorized Practice of Law*, 47 N.C.L. REV. 633 (1969).
- Swindler, *Toward a Restatement of Professional Ethics*, 27 U. PITT. L. REV. 795 (1966).



- Symposium - *Constitutional Dimensions of Legal Ethics*, 13 HASTINGS CONST. L.Q. 415 (1986).
- Symposium - *Symposium of Proposed New A.B.A. Code*, 54 CONN. B.J. 259 (1980).
- Trakman, *Competence in Law: An Unending Search*, 11 CAP. U.L. REV. 401 (1982).
- Underwood, *Legal Ethics and Class Actions: Problems, Tactics, and Judicial Responses*, 71 KY. L.J. 787 (1983).
- Taking and Pursuing a Case: Some Observations Regarding "Legal Ethics" and Attorney Accountability*, 74 KY. L.J. 173 (1986).
- The Doctor and His Lawyer: Conflicts of Interest*, 32 DEF. L.J. 24 (1983).
- Wilcox, *Prepaid Legal Services and the Code of Professional Responsibility*, 36 OHIO ST. L.J. 761 (1975).
- Williams, *The Code of Professional Responsibility and the College and University Lawyer*, J.C. & U.L. 248 (1975).
- Word, *Risk and Knowledge in Interspousal Conflicts of Interest: The Search for Competent Counsel Through Model Rule 1.8 (i)*, 7 WHITTIER L. REV. 943 (1985).
- Wright, *The Code of Professional Responsibility: Its History and Objectives*, 24 ARK. L. REV. 1 (1970).